

338
The 19th May, 1967

No. 3834-3lab-67/12898.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana Chandigarh in respect of the dispute between the workmen and management of M/s J.N. Sharma and Sons, Faridabad. —

**BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH
Complaint No. 27/3 of 1967 under Section 33-A of the Industrial Disputes Act, 1947
SHRI DIWAN**

Versus

M/S J. N. SARMA AND SONS, FARIDABAD.

AWARD

This complaint under section 33-A of the Industrial Disputes Act, 1947, has been filed by Shri Diwan, ex-workman in the factory of M/s J.N. Sharma and Sons, Faridabad. The allegations of the complainant are that during the pendency of a reference with regard to an Industrial Dispute between the workmen and the management of M/s J.N. Sharma and Sons, Faridabad, the management removed the complainant from service on 12th March, 1967, and this act of theirs is in clear contravention of the provisions of section 33(2) (b) of the Industrial Disputes Act. The allegations of the complainant have been repudiated by the management who have stated in their written statement that the complainant voluntarily resigned from service and was relieved as desired by him.

It is unnecessary to go into the rival contentions of the parties because I have no doubt that the provisions of section 33-A are not attracted to the present case and that the present complaint is misconceived. Section 33-A comes into operation only if there has been violation of the provisions of section 33 of the Act. Sub-clause (b) of sub-section (2) of the section 33 reads as under :—

For any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman :
provided.....

The bare reading of the section shows that the management had to obtain the approval of their action only if the dismissal, discharge or punishment had been made for *any misconduct*. There is no allegation in the present case that the complainant was discharged or removed from service for any misconduct and in the absence of this allegation the provisions of section 33 (2) (b) are totally inapplicable to the case of the complainant and consequently the provisions of section 33-A of the aforesaid Act are not attracted to this case. Whatever other remedies the complainant may have under the Industrial Disputes Act, his present complaint under section 33-A is obviously misconceived and the same is accordingly dismissed. No order as to cost.

Dated 6th May, 1967

K.L. GOSAIN,
PRESIDING OFFICER,
Industrial Tribunal, Haryana,
Chandigarh.

No. 566 dated Chandigarh, the 8th May, 1967.

The award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
PRESIDING OFFICER,
Industrial Tribunal, Haryana,
Chandigarh.

No. 3965-3Lab-67/12902.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Steel Crafts, Panipat :—

**BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR
COURT, ROHTAK**

Reference No. 14 of 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S STEEL CRAFTS,
PANIPAT

Present—

Shri Sube Singh, claimant, with Shri Raghbir Singh, on behalf of the workmen.
Shri Balak Ram, manager of the respondent concern, with Shri R.L. Gupta.

339
AWARD

An industrial dispute having arisen between the workmen and the management of M/s Steel Krafts, Panipat, the Government of Haryana by means of their gazette notification No. 141-SF-III-Lab-67 dated 3rd March, 1967, and in exercise of the powers conferred on them by section 10(1) (c) of the Industrial Disputes Act, 1947, have referred to this Court for adjudication the matter mentioned below :—

Whether the dismissal of Shri Sube Singh was justified and in order ? If not, to what relief/exact compensation is he entitled ?

Usual notices were issued to the parties and in response thereto the workmen filed a statement of their claim and the respondent-management filed their written statement denying the claim of the workmen. It was pleaded on behalf of the workmen that the claimant Shri Sube Singh was a permanent employee of the respondent factory and while on 7th July, 1966, he and one Shri Chander Bhan were working on a machine, an accident took place resulting in breakage of the machine. It has been pleaded that both Shri Sube Singh, claimant and Shri Chander Bhan were charge-sheeted by the management for deliberately causing breakage of the machine and that both of them furnished similar explanations. It has been further pleaded that no action has been taken against Shri Chander Bhan while the claimant Shri Sube Singh was dismissed by the management without any enquiry and without giving him an opportunity to defend himself.

The management in their written statement denied that the breakage of the machine was caused as a result of an accident. They maintain that the damage was caused by Shri Sube Singh deliberately which resulted in considerable financial loss to the management. It is pleaded that a proper and fair domestic enquiry was held against Shri Sube Singh and Shri Chander Bhan. As Shri Sube Singh did not appear although three opportunities were given to him, the enquiry was conducted *ex parte* against him. It has been pleaded that the enquiry officer found Shri Sube Singh guilty of the misconducts alleged in the charge-sheet and the management agreed with the findings of the Enquiry Officer and dismissed the claimant Shri Sube Singh. Shri Chander Bhan was held to be innocent by the Enquiry Officer and therefore no punishment was awarded to him.

The following three issues were framed in the case :—

- (1) Whether the claimant Shri Sube Singh has been dismissed by the management as a result of a fair and proper domestic enquiry ?
- (2) If issue No. 1 is decided against the management, whether the dismissal of Shri Sube Singh is justified and in order ?
- (3) Relief.

Issue No. 1—The management have produced Shri O.P. Goyal, the gentleman, who held the enquiry in this case. They have also produced their manager Shri Balak Ram. They also produced Shri Chander Bhan as their witness in the enquiry proceedings. Shri O.P. Goyal, Enquiry Officer and Shri Balak Ram, manager, have proved the enquiry proceedings. The charge against Shri Sube Singh was that he had deliberately broken the machine on which he was working with Shri Chander Bhan. Ex. RP/1 is the charge-sheet issued to him. Ex. RP/2 is the explanation submitted by Shri Sube Singh denying the charge against him. Shri Sube Singh admits having received the charge-sheet Ex. RP/1 and having submitted the explanation Ex. RP/2. He also admits that he received a further letter dated 12th July, 1966 Ex. RP/6 and had sent his reply Ex. RP/7 again denying the charge against him. Shri O.P. Goyal was appointed as the Enquiry Officer in this case. The date of enquiry was fixed as 1st August, 1966 and Ex. RP/9 is the registered notice sent to Shri Sube Singh for that date. The registered cover was received back from the postal authorities with the endorsement that the addressee had refused to accept it. The Enquiry Officer gave another chance to Shri Sube Singh and adjourned the enquiry to 12th August, 1966, as Shri Sube Singh was not present at the enquiry on 1st August, 1966. The second letter for 12th August, 1966, was also sent under registered cover which met the same fate. It has been contended on behalf of the workmen that the management have manoeuvred to create this false evidence regarding the refusal of the claimant Shri Sube Singh to accept these letters. There is no evidence on the record to substantiate that the position taken up by the workmen in this regard is correct. There is a presumption in favour of the correctness of the postal endorsements on the registered covers received back from the postal authorities and unless this presumption is rebutted by definite evidence to the contrary, it is difficult to hold that the claimant Shri Sube Singh did not refuse to accept the two letters sent to him under registered covers. As Shri Sube Singh was not present in the enquiry on 12th August, 1966, the Enquiry Officer was good enough to give him another chance and adjourned the enquiry to 22nd August, 1966. This time the notice Ex. RP/12 was sent not under registered cover but under postal certificate. The claimant Shri Sube Singh has admitted in these proceedings that he received the notice for 22nd August, 1966, copy of which is Ex. RP/12. As Shri Sube Singh was not present before the Enquiry Officer on 22nd August, 1966, the Enquiry Officer proceeded

340

against him *ex parte* and recorded the *ex parte* evidence of the management. He came to the conclusion that the charges against Shri Sube Singh had been proved and recommended his dismissal. Ex RP/13 is his report to this effect. Ex. A/1 is the original letter dated 16th November, 1966, sent by the management to Shri Sube Singh intimating him that he had been dismissed from service. This letter has been produced in these proceedings by the claimant himself.

Shri Raghbir Singh, learned representative of the workmen, contended that the domestic enquiry held by the management in this case was not fair and proper because Shri Sube Singh was not given full opportunity to defend himself in the enquiry. The facts stated above leave no doubt in one's mind that Shri Sube Singh was given full opportunity by the Enquiry Officer to be present in the enquiry. If the Enquiry Officer had to proceed *ex parte* against the claimant, the claimant has himself to thank for it. Much capital appears to have been made by the learned representative of the workmen out of the fact that Shri Balak Ram, witness of the management, had stated that the enquiry took place in the office of M/s Steel Crafts whereas in the enquiry notices and according to the statement of the Enquiry Officer, the enquiry took place in the office of National Industrial Corporation. There is evidence on record that National Industrial Corporation, Steel Crafts and Indian Conduit all belong to the same proprietors and their offices are located near one another. In fact the evidence shows that the offices of two of these concerns are situated in two adjoining rooms connected by a common door. One of these offices is of National Industrial Corporation. In these circumstances I do not attach much importance to this minor discrepancy, in the evidence produced in this case. I am unable to agree with the learned representative of the workmen that because of this discrepancy, I should hold that no enquiry in fact took place. The learned representative of the workmen then drew my attention to certain circumstances which according to him showed that the finding of the enquiry officer holding that the machine was deliberately damaged by Shri Sube Singh was not correct. I am afraid in these proceedings I cannot sit as a Court of appeal against the finding recorded by the Enquiry Officer. This Court can interfere only if the finding is not based upon any evidence or is perverse or is *mala fide*. The finding of the Enquiry Officer is based upon the testimony of three witnesses and is, therefore, not baseless. It does not go counter to what the evidence on record shows and therefore, cannot be said to be perverse. No *mala fide* against the Enquiry Officer or the management has been proved in this case. I, therefore, decide issue No. 1 in favour of the management and against the workmen and hold that the claimant Shri Sube Singh has been dismissed by the management as a result of a fair and proper domestic enquiry.

Issue No. 2.—In view of my finding on issue No. 1, this issue does not arise.

Issue No. 3.—The claimant Shri Sube Singh is not entitled to any relief. The claim of the workmen is dismissed. There will be no order as to costs in this case.

This award is submitted to the Government of Haryana, Department of Labour, as required under section 15 of the Industrial Disputes Act, 1947.

HANS RAJ GUPTA,
Presiding Officer, Labour Court,
Rohtak.

Camp: Panipat.
Dated 8th May, 1967.

No. 3753-3Lab-67/12904.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Escorts Ltd., Faridabad:—

**BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT,
ROHTAK**

Reference No. 70 of 1966

between

THE WORKMEN AND THE MANAGEMENT OF M/S ESCORTS LTD., FARIDABAD

Present—

Nemo for the workmen.

Nemo for the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Escorts Ltd., Faridabad, the State Government by means of their gazette notification No. 30-SF-III-Lab-66/2439, dated 14th December, 1966 and in exercise of the powers conferred on them by section 10(1)(c) of the Industrial Disputes Act, 1947, have referred to this Court for adjudication the matter mentioned below:—

Whether the termination of services of Shri Muna Lal Aggarwal, Welder, with effect from 7th May, 1966, is justified and in order? If not, to what relief/exact amount of compensation he is entitled?

341 Usual notices were issued to the parties and in respond thereto the workmen filed a statement of their claim and the respondent management filed their written statement denying the claim. It was pleaded on behalf of the workmen that the claimant Shri Munna Lal Aggarwal went on sick leave but on return he was not given any job. It has been pleaded that no charge sheet was issued to him nor any enquiry was held against him and therefore the termination of his services by the management was not proper. It has been further pleaded that the Personnel Manager of the respondent company was not competent to strike off the claimant's name from the rolls.

In their written statement the management have denied the allegations made by the workmen. It has been pleaded that the claimant took nine days leave for the period 4th April, 1966 to 12th April, 1966 to attend the marriage of his brother and he was due to report for duty on 13th April, 1966 but he did not do so. It is pleaded that an application dated 16th April, 1966 requesting for leave for the period 13th April, 1966 to 30th April, 1966 was received from the claimant requesting for sick leave for this period. It has been pleaded that the management doubted the genuineness of the allegations contained in this application and therefore wrote a letter to the claimant on 22nd April, 1966 to report to the factory immediately and submit himself to a thorough examination by the factory doctor. It is stated that the workmen did not do it and his name was struck off the rolls with effect from 7th May, 1966 as he was unauthorisedly absent since 13th April, 1966.

Issues were framed in the case and the case was fixed for the evidence of the parties on 28th April, 1967. On that date the parties got a date to arrive at a settlement between them. A settlement has since been arrived at between the parties and a copy of that settlement has been sent to this Court by the management. The management have paid to the claimant Shri Munna Lal Aggarwal a sum of Rs 1,700 in full and final settlement of all his claims and dues arising out of his employment with the respondent management. The management have also sent a receipt, dated 1st May, 1967 signed by the claimant Shri Munna Lal Aggarwal in proof of his having received the sum of Rs 1,700 from the management. In view of this the present reference has become infructuous and is filed. There will be no order as to costs.

This award is submitted to the Government of Haryana, Department of Labour as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 6th May, 1967.

HANS RAJ GUPTA,
Presiding Officer,
Labour Court, Rohtak.

No. 3824-3Lab-67/12906.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh in respect of the dispute between the workmen and management of M/s J. N. Sharma and Sons, Faridabad.

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH

Complaint No. 27/2 of 1967 under Section 33-A of the Industrial Disputes Act, 1947

Shri Anant Ram
versus
M/s J. N. Sharma and Sons, Faridabad.

AWARD

This complaint under Section 33-A of the Industrial Disputes Act, 1947 has been filed by Shri Anant Ram ex-workman in the factory of M/s J.N. Sharma and Sons, Faridabad. The allegations of the complainant are that during the pendency of a reference with regard to an Industrial Dispute between the workmen and the management of M/s J.N. Sharma and Sons, Faridabad, the management removed the complainant from service on 24th February, 1967 and this act of theirs is in clear contravention of the provisions of Section 33(2) (b) of the Industrial Disputes Act. The allegations of the complainant have been repudiated by the management who have stated in their written statement that the complainant voluntarily resigned from service and was relieved as desired by him.

It is unnecessary to go into the rival contentions of the parties because I have not doubt that the provisions of Section 33-A are not attracted to the present case and that the present complaint is misconceived. Section 33-A comes into operation only if there

has been violation of the provisions of Section 33 of the Act. Sub-clause (b) of sub-section 2 of section 33 reads as under:—

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman : provided.....

The bare reading of the section shows that the management had to obtain the approval of their action only if the dismissal, discharge or punishment had been made for any misconduct. There is no allegation in the present case that the complainant was discharged or removed from service for any misconduct and in the absence of this allegation the provisions of section 33(2)(b) are totally inapplicable to the case of the complainant and consequently the provisions of Section 33-A of the aforesaid Act are not attracted to this case. Whatever other remedies the complainant may have under the Industrial Disputes Act, his present complaint under section 33-A is obviously misconceived and the same is accordingly dismissed. No order to cost.

Dated the 6th May, 1967

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 565, dated Chandigarh, the 8th May, 1967.

The award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 3825-3Lab-67/12908.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh in respect of the dispute between the workmen and management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH

Reference No. 31 of 1966

between

THE WORKMEN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT
LTD., CHARKHI DADRI

Present:

1. Dr. Anand Parkash for the management.
2. Shri G.C. Joshi for the Dalmia Dadri Cement Factory Men's Union, Charkhi Dadri.
3. Nemo for Mazdoor Ekta Samiti, Charkhi Dadri.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of M/s Dalmia Dadri Ltd., Charkhi Dadri, the same was referred for adjudication to the Industrial Tribunal, Punjab under clause (d) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947,—*vide* Punjab Government Notification No. 418-SF-III-Lab-I-66/19470, dated 3rd June, 1966. The two items of dispute as mentioned in the said notification are as under :—

- (1) Whether the designations of the workmen mentioned in Annexure 'A' in column No. 3 are correct and in order ? If not, whether they are entitled to designation mentioned against each of them in column No. 4 ? If so, from which date ?

(2) Whether the workmen mentioned in Annexure 'B' who have been working for more than 6 months should be made permanent ? If so, from which date and with what details ?

The Tribunal issued usual notices to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. Necessary issues were framed by the Tribunal on 20th August, 1966 and parties were called upon to lead their evidence in respect of the same. Before any evidence could be led in the case, the Punjab Re-organisation Act came into force, and under Section 93 of the aforesaid Act, the case was transferred to this Tribunal. The management were directed by this Tribunal to produce their evidence on the 29th March, 1967 which they did on the said date. The workmen were then given an opportunity to produce their evidence on the 28th April, 1967. On the latter date the union of the workmen at whose instance the reference had been made was totally unrepresented as no one appeared for them. A request was received from them saying that the representative of the union who had to conduct the case had not been able to come because of the marriage of his niece and on this basis an adjournment of the case was sought. No affidavit was filed in support of the said reason and moreover this by itself was not considered by me to be a sufficient reason for an adjournment. The union could have very well arranged to depute another representative for the conduct of their case and was in any case bound to make some arrangement for the same. Another union of the workmen applied on that date to be made a party in the case and I acceded to their request. They produced their evidence and the same was recorded.

The workmen have not produced any evidence in respect of item No.2 of the dispute. The only evidence produced by the workmen consists of one Shri Chhajju whose name is mentioned at item No. 3 of Annexure 'A' to the reference. He has stated that he is working as an oilman but has not been designated by the management as such and has only been designated as a helper. This evidence is contradicted by the evidence of Shri Ishwar Nath, Deputy Chief Engineer of the concern who has stated that there is no designation of an oilman in the department in which Shri Chhajju is working and that Shri Chhajju is only a helper and not an oilman. It is difficult to reply upon the evidence of Shri Chhajju alone more especially when it is contradicted by a responsible officer of the concern. There is no evidence led by the workmen in respect of other persons mentioned in Annexure 'A' to the reference. None of the demands covered by the two items of reference has been substantiated by the workmen and the said demands are, therefore, dismissed. No order as to cost.

K. L. GOSAIN,

Dated 8th May, 1967.

Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh.

No. 567, dated Chandigarh, the 9th May, 1967.

The award be submitted to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required by Section 15 of the Industrial Disputes Act, 1957.

K.L. GOSAIN,

Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh.

P. N. BHALLA, Secy.

REVENUE DEPARTMENT

The 24th May, 1967

No. 1818-Admn. V-67/1036.—The Governor of Haryana, in consultation with the Haryana Public Service Commission is pleased to appoint Shri Naranjan Singh Sodhi as Assistant Secretary to the Financial Commissioner, Haryana, and Assistant Secretary to the Government, Haryana, Revenue Department in the grade of Rs 800—40—1,000, with effect from the 1st November, 1966.

SUKHDEV PRASAD Dy Secy.

WAR JAGIR

The 24th May, 1967

No. 177-R(IV)-67/1686.—In exercise of the powers conferred by sections 2(a) (ia) and 3 (IA) of the East Punjab War Awards Act, 1948, the Governor of Haryana is pleased to make a grant of war jagir of the annual value of Rs 100 (Rupees one hundred only) in favour of Shri S. Ram, s/o Shri Sheo Karan of village Chhapra Salimpur, tehsil Narnaul, district Mohindergarh, subject to such conditions as to its enjoyment as are contained in the sanad of the Jagir granted to him.

This grant will take effect from Rabi, 1966.